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DWCNewsline

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The California Division of Workers' Compensation files final regulations for administrative penalties pursuant to Labor Code § 5814.6 with the Office of Administrative Law

The Division of Workers' Compensation (DWC) has filed its final regulations for administrative penalties pursuant to Labor Code § 5814.6 with the Office of Administrative Law. The division has requested an effective date of Feb. 1, 2007 for the regulations. Labor Code section 5814.6 provides administrative penalties for unreasonable delay or refusal to pay compensation. Unreasonable delays or denials of compensation to injured employees undermine the central purpose of California's workers' compensation system. The law provides a remedy for such abuse by authorizing workers' compensation judges to impose penalties for violations found in individual cases. The proposed regulations provide a remedy where multiple violations by a particular claims administrator demonstrate the existence of a general business practice of knowingly causing unreasonable delays or denials.

Penalties will be assessed as specified in the regulations and all penalties collected will be deposited into the Workers' Compensation Return-to-Work Fund, established to promote the early and sustained return to work of employees following work-related injuries or illnesses.

The proposed regulations implement, interpret and make specific the provisions of Labor Code section 5814.6 by:

- Defining particular entities subject to the administrative penalties
- Specifying criteria the DWC administrative director (AD) must consider in finding that violations were committed knowingly
- Specifying the criteria the AD must consider when determining the frequency of violations indicates the existence of a general business practice
- Establishing a schedule of penalties to be imposed based upon the nature, severity, frequency and duration of the relevant violations
- Specifying administrative procedures to be followed in assessing the administrative penalties and in appealing penalty assessments, allowing for due process.

Draft penalty regulations for Labor Code section 5814.6 were initially published in the California Notice Register on Apr. 28, 2006. A public hearing took place on Jun. 29, 2006, at the state building in Oakland. The DWC issued a revised version of the regulations for a first 15 day comment period,

which ended Sep. 27, 2006. Two additional revised versions of the regulations were issued: The second 15 day comment period closed Nov. 10, 2006 and the third 15 day comment period closed Nov. 18, 2006.

The final regulations and the final statement of reasons, as submitted to the Office of Administrative Law, have been posted on the DWC Web site at http://www.dir.ca.gov/dwc/DWCPropRegs/AdminPenalties_LC5814_6Regulations/LC5814_6Regulations.htm.

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